

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(1) L.P.A. No. 97 of 1994

Khan Chand.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

(2) L.P.A. No. 98 of 1994

Shanti Devi.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

(3) L.P.A. No. 99 of 1994

Lajwanti.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

(4) L.P.A. No. 100 of 1994

Ram Saran.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

(5) L.P.A. No. 101 of 1994

Sushma.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

(6) L.P.A. No.391 of 1994

Darbara Singh.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

(7) L.P.A. No. 85 of 1995

Gurbachan Singh (since deceased) through L.Rs.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

(8) L.P.A. No. 378 of 1996

Samadh Shital Puri Waqia Deh Haja.

..... Appellant through Shri
Rakesh Nagpal, Advocate.

Versus

State of Haryana.

..... Respondent through Shri
B.S.Rana, Additional
Advocate General, Haryana.

Date of Decision: 11.12.2007

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

This common judgment will dispose of the above mentioned eight appeals under Clause X of the Letters Patent, which, although, have been preferred against different orders of the learned Single Judges, but the lands of the appellants situated within the revenue estate of Kaithal along with those belonging to others were acquired by the same notifications dated 14.7.1982 and 22.11.1984 issued by the Government of Haryana under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short, 'the Act'), respectively, for a public purpose, namely, for the development of residential and commercial area, Sector 19, Kaithal.

The Land Acquisition Collector, Urban Estate, Panchkula, (hereinafter referred to as 'the Collector') assessed the market value of the acquired land at the rate of Rs.40,000/- per acre, except for 32 kanals and 17 marlas of land which was in depression. The market value of the excepted land was fixed at Rs.32,000/- per acre.

Dis-satisfied with the award of the Collector, the appellants and other land-owners sought references under Section 18 of the Act.

The Courts of Reference disposed of the claim petitions by different awards and enhanced the market price of the acquired land of the appellants to Rs.70,000/- per acre except that of appellant-Smadh Shital Puri Waqia Deh Haja, the market price of whose entire acquired land was fixed at Rs.40,000/- per acre. Besides, the value of the trees belonging to appellant-Smadh Shital Puri Waqia Deh Haja was assessed at Rs.2/- per tree.

Still dis-satisfied, the appellants filed Regular First Appeals,

which have been decided by the learned Single Judges vide their different orders while determining the market price of their acquired land at the rate of Rs.86400/- per acre. They were also held entitled to the grant of statutory benefits in accordance with the amended provisions of the Act.

In the present appeals, the learned counsel for the appellants raised the following substantive contentions:-

(i) That the Courts of Reference and the learned Single Judges recognized the potentiality of the acquired land by accepting the unrebutted oral evidence on record.

(ii) That sale deed (Exhibit P1 in the claim petitions filed by the appellants other than Smadh Shital Puri Waqia Deh Haja) was rightly relied upon, but the learned Single Judge, while deciding the appeals of those appellants, failed to notice the fact that it pertained to the year 1980, whereas the acquisition was of the year 1982 and, therefore, some element of increase in the market value for the two intervening years should have been allowed at the time of assessing the compensation.

(iii) That the cut of 40% was on the higher side and rather, a cut of $\frac{1}{3}^{\text{rd}}$ which is acceptable norm, should have been applied.

Learned counsel for the State, however, contended that no fault can be found with the orders of the learned Single Judges, who have assessed the compensation in a fair manner.

We have heard the learned counsel for the parties and have perused the record.

There is, indeed, no doubt about the fact that the land in question was having high potential which is borne out from the statement of Khan Chand, one of the appellants, who stepped into the witness box as PW1, which has not been refuted by the respondents. The said witness stated that the acquired land was situated barely two furlongs from Kaithal city and that there are in existence M.I.T.C. Colony, Office of Superintendent of Police, Jat School and a few factories in its vicinity. Besides, the location of the bus stand was at a short distance from the acquired land.

In view of the above over-whelming evidence, one of the learned Single Judges, in his order, was right in observing that the acquired land had huge potentiality.

After recognizing the potential of the acquired land, one is to travel to the evidence on record on the basis of which some evaluation could be done regarding its market price.

Exhibit P1, referred to above, is an instance of sale of one kanal land on 18.12.1980 for Rs.18,000/- and when the price of one acre land is calculated at this rate, it comes to Rs.1,44,000/-. This land was situated within the municipal limits of Kaithal, but considering the fact that the acquired land was merely two furlongs away from city of Kaithal, there could have not been much difference in its price. To our mind, the learned Single Judge, while deciding the Regular First Appeals of the appellants except that of appellant-Smadh Shital Puri Waqia Deh Haja, failed to appreciate that sale deed Exhibit P1 was of the year 1981, whereas the acquisition in question was of the year 1980 and, therefore, some escalation

would have taken place during these two intervening years. In this view of the matter, we feel that for calculating the market price of the land as per Exhibit P1, 10% increase per annum ought to have been applied to determine the prevailing price in the year 1982. Thus, the price of the land works out at Rs.1,72,800/- per acre.

In our opinion, the learned Single Judge was right in applying a cut of 40% on the price contained in Exhibit P1 as the area sold through it was very small. Therefore, we do not agree with the learned counsel for the appellants that a cut of 1/3rd should be applied.

Thus, by applying the cut of 40% to the price determined above at Rs.1,72,800/-, the market value of the acquired land is assessed at Rs.1,03,680/- per acre.

In the result, the appellants are held entitled to get compensation for their acquired land at the rate of Rs.1,03,680/- per acre. Besides, they shall also be paid the statutory benefits as per amended provisions of the Act on the enhanced amount of compensation. No order as to costs.

With the above observations, the appeals are disposed of.

(Vijender Jain)
Chief Justice

December 11,2007
“SCM”

(Mahesh Grover)
Judge